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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,167	09/30/2003	Lloyd Marks	117622-00102	9810

27557 7590 12/14/2006

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600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

EXAMINER

TOTH, KAREN E

ART UNIT	PAPER NUMBER
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3735

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,167

Applicant(s)

MARKS ET AL.

Examiner

Karen E. Toth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 and 28-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-27 and 56-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. Claims 24, 26, 56, 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Raines (US Patent 6149587).

Regarding claim 24, Raines discloses a method for detecting peripheral vascular disease comprising taking quantitative pulse volume measurements at a plurality of positions on the patient's limbs (column 4, lines 43-49; column 6, lines 32-35; column 7 line 63 to column 8 line 5); and detecting the peripheral vascular disease from the quantitative pulse volume measurements (column 2 line 66 to column 3 line 14). The examiner notes that Raines does not explicitly disclose diagnosing vascular disease. However, based upon the discussion provided in the background of the patent, and the fact that Raines generates a vascular diagnosis based upon pulse volume inputs from a plurality of cuffs, it is clear that the vascular diagnosis that the system provides would be the diagnosis of vascular disease.

Regarding claim 26, Raines further discloses that the measurements may be taken at different times and compared (column 6, lines 14-18) in order to determine the disease's current status (column 6, lines 1-3).

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Regarding claim 56, Raines further discloses comparing the quantitative pulse volume measurements among the plurality of positions on the patient's limbs (figures 15-18).

Regarding claim 57, Raines further discloses comparing the quantitative pulse measurements for different limbs of the patients (column 7, lines 36-50).

Claim Rejections - 35 USC § 103

3. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raines in view of Marks (US Patent 4548211).

Raines discloses all the elements of the current invention, as applied to claim 24 above, except for the detection of peripheral vascular disease comprising calculating a peak net inflow, an area under a pulse volume curve, or a pulse volume x heart rate product for the patient's limbs.

Marks teaches a device that uses pulse volume measurements comprising calculation of peak net inflow (column 6, lines 31-34), in order to evaluate the health of a patient's peripheral vessels. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the method of Raines and calculated peak net inflow as part of the detection of peripheral vascular disease, as taught by Marks, in order to evaluate the health of the patient's peripheral vessels.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raines in view of Huizenga (US Patent Application Publication 2004/0043614).

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Raines discloses all the elements of the current invention, as applied to claim 24 above, except for the method being performed both before and after peripheral vascular disease treatment in order to determine the efficacy of the treatment.

Huizenga teaches a method of detection of peripheral vascular disease where the vascular disease detection is performed both before and after treatment in order to determine the efficacy of the treatment (paragraphs [0023] and [0047]), so that a health care provider can determine if an alternate treatment is needed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the method of Raines and measured the patient's vascular disease status both before and after treatment to determine the treatment's efficacy, as taught by Huizenga, so that a health care provider can determine if an alternate treatment is needed.

Response to Arguments

5. Applicant's arguments, see page 12, lines 17-20, of the remarks filed 13 November 2006, with respect to the rejection(s) of claim(s) 24-27 under Raines (US Patent 5718232) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Raines (US Patent 6149587).

Conclusion

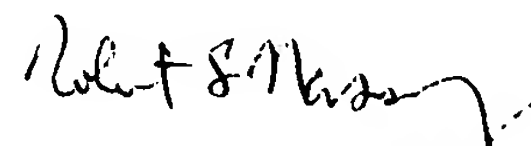
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen E. Toth whose telephone number is 571-272-6824. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ROBERT L. KASSER
PRIMARY EXAMINER